APPENDIX

STATUTES INVOLVED

TITLE X.

"§ 47-1580. *Purpose of article.*

"It is the purpose of this article to impose (1) an income tax upon the entire net income of every resident and every resident estate and trust, and (2) a franchise tax upon every corporation and unincorporated business for the privilege of carrying on or engaging in any trade or business within the District and of receiving such other income as is derived from sources within the District: *Provided, however*, That, in the case of any corporation, the amount received as dividends from a corporation which is subject to taxation under this article, and, in the case of a corporation not engaged in carrying on any trade or business within the District, interest received by it from a corporation which is subject to taxation under this article shall not be considered as income from sources within the District for the purposes of this article: The measure of the franchise tax shall be that portion of the net income of the corporation and unincorporated business as is fairly attributable to any trade or business carried on or engaged in within the District and such other net income as is derived from sources within the District: *Provided further*, That income derived from the sale of tangible personal property by a corporation or unincorporated business not carrying on or engaging in trade or business within the District as defined in sections 47-1551 to 47-1551c shall not be considered as income from sources within the District for purposes of this article, with the exception of income from sales to the United States not excluded from gross income as provided in section 47-1557a (b) (13). (July 16, 1947, 61 Stat. 349, ch. 258, Art. I, Title X, § 1; May 3, 1948, 62 Stat. 207, ch. 246, § 2.)"

"§ 47-1580a. *Allocation and apportionment.*

"The entire net income of any corporation or unincorporated business, derived from any trade or business carried on or engaged in wholly within the District shall, for the purposes of this article, be deemed to be from sources within the District, and shall, along with other income from sources within the District, be allocated to the District. If the trade or business of any corporation or unincorporated business is carried on or engaged in both within and without the District, the net income derived therefrom shall, for the purposes of this article, be deemed to be income from sources within and without the District. Where the net income of a corporation or unincorporated business is derived from sources both within and without the District, the portion thereof subject to tax under this article shall be determined under regulation or regulations prescribed by the Commissioners. The Assessor is authorized to employ any formula or formulas provided in any regulation or regulations prescribed by the Commissioners under this article which, in his opinion, should be applied in order to properly determine the net income of any corporation or unincorporated business subject to tax under this article. (July 16, 1947, 61 Stat. 349, ch. 258, Art. I, Title X, § 2.)"

"§ 47-1806. *Rates on insurance companies—Exceptions—Definitions—Marine insurance excluded.*

"All such companies, including companies which issue annuity contracts, shall also pay to the collector of taxes of the District of Columbia a sum of money as taxes equal to 2 per centum of their policy and membership fees and net premium receipts or consideration received on all insurance and annuity contracts on risks in the District of Columbia, said taxes to be paid before the 1st day of March of each year on the amount of such income for the year ending December 31, next preceding. Such tax shall be in lieu of all other taxes except (1) taxes upon real

estate and (2) fees and charges provided for by the insurance laws of the District including amendments made to such laws by this title.

"Net premium receipts or consideration received means gross premiums or consideration received less the sum of the following:

"1. Premiums received for reinsurance assumed and premiums or considerations returned on policies or contracts canceled or not taken.

"2. Dividends paid in cash or used by the policyholders in payment of renewal premiums.

"Nothing contained in this section or in sections 47-1801, 47-1807 shall apply with respect to marine insurance written within the said District and reported, taxed, and licensed under the provisions of sections 35-110, to 35-1132. (Aug. 17, 1937, 50 Stat. 676, ch. 690, Title II, § 6; May 16, 1938, 52 Stat. 358, ch. 223, § 2.)"

"§ 47-1546. *Licenses—Corporations liable—Duration—Posting—Revocation—Renewal—Penalties—'Business' defined.*

"(a) Every corporation (except those expressly exempt from the tax imposed by this title) engaging in or carrying on any business, or receiving income from District of Columbia sources, shall obtain a license so to do on or before the 1st day of January of each year: * * *.

* * *

"(d) Every corporation not having an office or place of business in the District but which receives income from District sources or engages in or carries on any business in the District by or through an employee or agent shall procure the license provided by this title. * * * No employee or agent of a corporation not having an office or place of business within the District shall engage in or carry on any business in the District for or on behalf of

such corporation unless such corporation shall have first obtained a license, as provided by this title.

* * *

"(g) Any corporation receiving income from District sources or engaging in or carrying on any business in the District without first having obtained a license so to do, and any person engaging in or carrying on any business for or receiving income from District sources on behalf of a corporation not having a license so to do, shall, upon conviction thereof, be fined not more than $300 for each and every failure, refusal, or violation, and each and every day that such failure, refusal, or violation continues shall constitute a separate and distinct offense. * * *

"(h) The term 'business' as used in this section, shall include the carrying on or exercising for gain or economic benefit, either direct or indirect, any trade, business, or commercial activity in the District: * * *" (July 26, 1939, ch. 367, Title II, § 43, as added Feb. 2, 1942, 56 Stat. 45, ch. 33, § 1(q), amended June 22, 1942, 56 Stat. 376, ch. 433, §§ 2, 3.)

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Nos. 15120-15138

CONSOLIDATED TITLE CORPORATION, a Maryland corporation, *Petitioner*

v.

DISTRICT OF COLUMBIA, *Respondent*

Petitions for Review of Decisions of the District of Columbia Tax Court

Decided February 25, 1960

Mr. John J. Wilson, with whom Messrs. Philip S. Peyser and Thomas S. Jackson were on the brief, for petitioner.

Mr. Henry E. Wixon, Assistant Corporation Counsel for the District of Columbia, with whom Messrs. Chester H. Gray, Corporation Counsel, and Milton D. Korman, Principal Assistant Corporation Counsel, were on the brief, for respondent. Mr. Leo J. Ehrig, Assistant Corporation Counsel, also entered an appearance for respondent.

Before EDGERTON, BAZELON, and FAHY, *Circuit Judges*.

EDGERTON, Circuit Judge: Petitioner, Consolidated Title Corporation, asks review of decisions of the District of Columbia Tax Court affirming assessments of income taxes for the years 1939 to 1946, and of franchise taxes for the years 1947 to 1959.

Petitioner is a corporation organized under the laws of Maryland. It has a statutory corporate office in Baltimore, but its books and records are kept, meetings of stockholders and directors are held, and the corporate business is transacted in the District of Columbia. It was organized to carry out a court-approved reorganization of a bankrupt corporation. Its entire income consists of dividends from three subsidiary corporations, all of which are organized under District of Columbia law, have

their principal offices and businesses in the District and are engaged in the real estate title examination and insurance business.

The District of Columbia Income Tax Act of 1939 imposed a 5% tax on the income of every corporation, whether domestic or foreign, "from sources within the District of Columbia." D.C.Code (1940 Ed.) §§ 47-1502(b), 1504(b). The District of Columbia Income and Franchise Tax Act of 1947 imposed a 5% tax on the income of every corporation, whether domestic or foreign, for "the privilege of carrying on or engaging in any trade or business within the District and of receiving income from sources within the District." D.C.Code (1951 Ed.) § 47-1571a. Congress declared its purpose "to impose . . . a franchise tax upon every corporation . . . for the privilege of carrying on or engaging in any trade or business within the District and of receiving such other income as is derived from sources within the District . . . ." D.C.Code (1951 Ed.) § 47-1580.

The Tax Court held, and we agree, that petitioner received its income from "sources within the District" and was therefore subject to these taxes. The "sources" were petitioner's subsidiary corporations. Since they had their principal offices and businesses in the District, they were "within the District"; they were "'domiciled' therein, corporately and commercially", as the Tax Court found. It is immaterial that some of their business was done elsewhere. We are not concerned with the sources of *their* income, but only with the sources of petitioner's income. *Cf. Eastman Kodak Co.* v. *District of Columbia*, 76 U.S. App.D.C. 339, 340, 131 F.2d 347, 348. We need not consider whether petitioner was "engaging in . . . business within the District" within the meaning of the franchise tax. *Cf. District of Columbia* v. *Virginia Hotel Co.*, 92 U.S.App.D.C. 186, 187, 204 F.2d 390, 391.

Affirmed.

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Nos. 15,120 through 15,138

September Term, 1959

Docket Nos. 1642 through 1660

CONSOLIDATED TITLE CORPORATION, a Maryland corporation,
Petitioner,

v.

DISTRICT OF COLUMBIA, *Respondent.*

Petitions for Review of Decisions of the District of Columbia Tax Court.

Before: Edgerton, Bazelon and Fahy, Circuit Judges.

Judgment

These cases came on to be heard on the record from the District of Columbia Tax Court, and were argued by counsel.

ON CONSIDERATION WHEREOF, It is ordered and adjudged by this court that the decisions of the said Tax Court on review in these cases are affirmed, with costs.

PER CIRCUIT JUDGE EDGERTON.

Dated: February 25, 1960.

United States Court of Appeals
For the
District of Columbia Circuit

FILED FEB 25 1960

Joseph W. Stewart
Clerk

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15,120-15,138

September Term, 1959

CONSOLIDATED TITLE CORPORATION, a Maryland corporation, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*.

Before: Prettyman, Chief Judge, Edgerton, Wilbur K. Miller, Bazelon, Fahy, Washington, Danaher, Bastian and Burger, Circuit Judges, in Chambers.

Order

[ON PETITION FOR REHEARING]

There not being a majority of the Circuit Judges of this court in favor of a rehearing of the above entitled case by the court in banc, the petition for rehearing in banc is hereby denied.

For the Court:

Chief Judge

Dated: April 1, 1960